

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Criminal Action No.
) 04-00404-01-CR-W-FJG
DUANE C. CARTER,)
)
Defendant.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

I. BACKGROUND

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on June 15, 2005. Defendant Duane Carter appeared in person and with retained counsel John Picerno. The United States of America appeared by Assistant United States Attorney Stefan Hughes.

On December 15, 2004, an indictment was returned charging defendant with being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2)

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Hughes announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Special Agent Darrell Reach, ATF.

Mr. Picerno announced that he will be the trial counsel for defendant Duane Carter.

III. OUTSTANDING MOTIONS

The following motions are pending before the district judge:

Document #34, Motion to Suppress Statements (filed July 19, 2005)

Document #35, Motion to Suppress Physical Evidence (filed July 19, 2005)

IV. TRIAL WITNESSES

Mr. Hughes announced that the government intends to call 10 witnesses without stipulations during the trial.

Mr. Picerno announced that defendant Duane Carter intends to call 2-3 witnesses during the trial.

The defendant may testify.

V. TRIAL EXHIBITS

Mr. Hughes announced that the government will offer approximately 11 exhibits in evidence during the trial.

Mr. Picerno announced that defendant Duane Carter will offer approximately 1-2 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Picerno announced that defendant Duane Carter will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Picerno stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to prior felony convictions and interstate nexus of the firearm.

IX. TRIAL TIME

Counsel were in agreement that this case will take 2-3 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed March 29, 2005, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by July 22, 2005;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, July 27, 2005 ;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, July 27, 2005. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated.

There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on August 1, 2005.

Defense counsel indicated he would file a motion for leave to file his motions to suppress out of time, and consented to continuing this case to a future docket to give the court time to rule on those motions.

/s/Robert E. Larsen _____

ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri

July 21, 2005

cc: The Honorable Fernando J. Gaitan
Mr. Stefan Hughes
Mr. John Picerno
Mr. Jeff Burkholder